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FM AMEMBASSY KATHMANDU  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 9529  
INFO RUEHBJ/AMEMBASSY BEIJING PRIORITY 3755  
RUEHLM/AMEMBASSY COLOMBO PRIORITY 4014  
RUEHKA/AMEMBASSY DHAKA PRIORITY 9057  
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 1981  
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 8925

C O N F I D E N T I A L KATHMANDU 002814

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SUBJECT: SUPREME COURT ORDER SHOULD IMPROVE ENVIRONMENT

Classified By: DCM Elisabeth I. Millard, reasons 1.4 (b/d)

SUPREME COURT ISSUES ORDER ENFORCING ENVIRONMENTAL LAWS

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**¶11.** (U) On December 9, the Supreme Court issued a directive order to His Majesty's Government of Nepal (HMGN) to enforce environmental laws regulating brick kilns in the Kathmandu Valley. The directive order instructed that representatives from the Ministry of Science and Environment, Ministry of Industries and Commerce, and the NGO Pro-Public (who filed the litigation) form a committee to deliver a report to the Supreme Court within six months. The committee should recommend how to curb kiln pollution and detail progress on whether kilns were either upgraded to environment friendly technology or were closed down. The Supreme Court would then direct HMGN to implement recommendations made by the committee under the observation of the monitoring unit of the Supreme Court.

GOVERNMENT HAS NOT BEEN ENFORCING EXISTING LAWS

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**¶12.** (SBU) The Industrial Enterprises Act contains environmental provisions and requires brick kilns to register and acquire a license. Rather than comply with environmental laws outlined in the Act, most brick kiln owners in the Kathmandu Valley operate without the required license and instead pay annual fines to HMGN of approximately USD 1,400. Raju Prasad Chapagain, the Pro-Public attorney, explained that under section 25 of the Industrial Enterprises Act, HMGN was supposed to close all illegally (unregistered) operated kilns. Chapagain stated that the Act required legal (registered) kilns to operate with environment friendly technology. He said there were more illegal than legal brick kilns operating in the Kathmandu Valley, contributing to Kathmandu's pollution problem.

CASE LAWYER MILDLY OPTIMISTIC FOR CHANGE

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**¶13.** (C) Chapagain told Emboff that while the Supreme Court decision was a positive development, the legal process to implement real change would be slow. Chapagain opined that, given the current political climate in Nepal, he was doubtful that HMGN would fully implement the directive order. He noted that while the full text of the court decision would not come out for several weeks, Pro-Public would soon send letters to appropriate HMGN officials proposing the formation of the committee outlined in the Court's directive order.

COMMENT

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¶4. (SBU) The enforcement of environmental protection laws in Nepal has a mixed history. That Pro-Public engaged the Supreme Court and got a positive decision to enforce environmental provisions is a good step, but implementation might be slow and problematic.

MORIARTY